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STATE FOR EB/CIP, EUR/WE, AND EUR/ERA  
DEPT PLEASE PASS TO USTR JMCHALE, KSCHAGRIN, AND CHINKLEY  
FCC FOR TWEISLER  
COMMERCE FOR NTIA CSPECK AND ITA JBURTON  
JUSTICE FOR KWILLNER, JHORVATH, TBURROWS  
DEPT PLEASE PASS TO FTC FOR HSTEVENSON

E.O. 12958: N/A

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SUBJECT: GOOGLE WARNS OF GROWING DATA PRIVACY CONCERNS IN FRANCE AND  
IN THE EU

Summary

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¶11. (SBU) Google tells us that it faces several liability and public relations issues because its customers' data are stored in the U.S. Potential business customers are nervous about storing data on U.S.-based servers where U.S. law enforcement officials can easily gain access and where tougher European privacy laws would not protect against its wide distribution. In Europe, Google faces an increasing number of demands from law enforcement to provide data on customers that have data on its U.S. servers, even though this information is not stored in France. Google is afraid of resulting liability issues and says that the U.S. and EU need to agree on how to handle such law enforcement requests. End Summary.

Google's expansion in France and in Europe

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¶12. (SBU) On February 6, 2007, Econoff met three officials from Google's Paris office: Europe Privacy Counsel Peter Fleischer, Corporate Development Manager Olivier Esper, and France Legal Counsel Yoram Elkaim. They were upbeat about Google's recent expansion in France, where their Paris office staff doubled from 60 to 120 in 2006. Fleischer said their office would double again to 240 in 2007. Google would soon launch its web-based e-mail service (gmail) in France, making it available to everyone, rather than to those introduced by members.

Dealing with the "grey zone"

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¶13. (SBU) According to Fleischer, Google offers two primary services: its search engine acts as a portal and index to the World Wide Web, and its data centers act as a host for content, such as blogs or videos. As content host, the most profitable area was the corporate business sector, in which Google presented a package of services, software, and storage facilities for data needs. At present, Google stores such data on U.S. servers, which presented public relations challenges. Potential commercial customers were concerned about the integrity of data since U.S. law enforcement requests were usually less specific than European requests. Additionally, European customers thought that the U.S. legal system did not protect the data to the same extent as in Europe. Fleischer (an American) thought it essential that the U.S. and EU reach agreement on law enforcement data sharing. He said that lack of such agreement was redounding on U.S. industry, as negative perceptions about how the USG treated data worsened.

¶ 4. (SBU) Elkaim continued that Google, as all other Internet Providers, did not control content, merely infrastructure (except for those services which are licensed or owned by Google, such as Google Earth, which hosts satellite photos). Yet, French law enforcement officials often asked Google for the identities of those who host specific content or the identities of specific e-mail users. In both cases, the local police and Google were frustrated because the firm's European offices had to request the information from its Palo Alto headquarters, which took time.

¶ 5. (SBU) Fleisher noted that the U.S. and EU needed to agree on what law enforcement requests were appropriate and how to field such requests. Otherwise, U.S. Internet firms in Europe could face liability issues. The present law enforcement exchange mechanisms - letters rogatory, information exchange through Mutual Legal Assistance Treaties (MLATs), and other government-to-government communication - were too slow to address Internet-related law enforcement issues since websites and blogs could be removed overnight. "We need to come out of the grey zone," Peter Fleischer said, "and out of the old system." Google fears that as it markets a broader range of services to French and other European firms, including hosting spreadsheets and business proprietary information all stored in the U.S., the confidentiality issue will become more important.

¶ 6. (SBU) Google said that it was facing a European "misperception" of new U.S. law enforcement legislation. A proposal to retain data for two years was likely to feed into fears about data misuse. To deal with EU sensitivities about data, Google would eventually increase the number of data centers in Europe so that European data did not need to reside in the U.S. if these issues remained unresolved. However, Google believed this investment would only need to take place if there was a continuing lack of consensus on how law enforcement should treat data. This would be "a weird

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solution to a problem that needed to be solved in a different way." Google asserted that there was a need for international understanding on how web hosts should cooperate with local authorities, and which legal regimes should apply. In its view only laws where data was hosted should apply; otherwise, Google and others would be liable to provide any government that wanted information on an individual anywhere in the world.

#### A Cultural Challenge

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¶ 7. (SBU) Google also raised the French concern about the omnipresence of U.S. culture in French society, citing President Jacques Chirac's support of the creation of an online digital library to rival one planned by Google. The officials also noted another decision in 2005 to help fund "Quaero," a new European internet search engine to rival Google and Yahoo. At the time, Chirac argued, "We're engaged in a global competition for technological supremacy. In France, in Europe, it's our power that's at stake." Google's public relations challenge, Fleischer noted, was to show the French that Google was enhancing access to French culture, for instance, by making out-of-print French books available on a worldwide basis.

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